

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

GREGORY J. AVEDISIAN and,	)	
LINDA J. AVEDISIAN,	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No.:1:16-cv-00654-S-PAS
	)	
SELECT PORTFOLIO SERVICING, INC.,	)	
AND U.S. BANK, NA, SUCCESSOR	)	
TRUSTEE TO LASALLE BANK NATIONAL	)	
ASSOCIATION, ON BEHALF OF THE	)	
HOLDERS OF BEAR STEARNS ASSET	)	
BACKED SECURITIES I TRUST 2005-HE10	)	
ASSET BACK CERTIFICATES SERIES	)	
2005-HE10,	)	
Defendants.	)	

**MOTION TO DISMISS AMENDED COMPLAINT  
FOR FAILURE TO STATE A CLAIM**

**I. INTRODUCTION**

Defendants Select Portfolio Servicing, Inc. and U.S. Bank, N.A., as Successor Trustee, pursuant to Fed. R. Civ. P. 12(b)(6), hereby move to dismiss the Amended Complaint of Plaintiffs Gregory and Linda Avedisian for failure to state a legal claim for recovery as a matter of law. Plaintiffs cannot establish any legal basis to challenge a mortgage foreclosure upon their admitted default of the mortgage loan at issue. Plaintiffs have no right to force Defendants to modify the defaulted loan. Plaintiffs fail to establish any viable claim upon which relief may be granted, and are not entitled as a matter of law to equitable relief, damages, or an order quieting title. Defendants further rely upon their Memorandum of Law on file.

For the foregoing reasons, Defendants request this Court to dismiss Plaintiffs' Amended Complaint in its entirety with prejudice.

Respectfully submitted,

**SELECT PORTFOLIO SERVICING, INC. AND U.S.  
BANK, N.A., AS SUCCESSOR TRUSTEE,**

By their attorneys,

/s/ Peter F. Carr, II

Peter F. Carr, II (R.I. Bar #5343)

**ECKERT SEAMANS CHERIN & MELLOTT, LLC**

Two International Place, 16th Floor

Boston, MA 02110-2602

Telephone: 617.342.6800

Facsimile: 617.342.6899

pcarr@eckertseamans.com

Dated: March 31, 2017

**CERTIFICATE OF SERVICE**

I hereby certify that on this date the foregoing document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those parties which are as non-registered participants.

/s/ Peter F. Carr, II

Peter F. Carr, II

Dated: March 31, 2017